

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 4395  
OFFERED BY MS. GARCIA OF TEXAS**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Payment Choice Act  
3 of 2022”.

4 **SEC. 2. SENSE OF CONGRESS.**

5 It is the sense of Congress that every consumer has  
6 the right to use cash at retail businesses who accept in-  
7 person payments.

8 **SEC. 3. RETAIL BUSINESSES PROHIBITED FROM REFUSING  
9 CASH PAYMENTS.**

10 (a) IN GENERAL.—Subchapter I of chapter 51 of title  
11 31, United States Code, is amended by adding at the end  
12 the following:

13 **“§ 5104. Retail businesses prohibited from refusing  
14 cash payments.**

15 “(a) IN GENERAL.—Any person engaged in the busi-  
16 ness of selling or offering goods or services at retail to  
17 the public with a person accepting in-person payments at  
18 a physical location (including a person accepting payments

1 for telephone, mail, or internet-based transactions who is  
2 accepting in-person payments at a physical location)—

3 “(1) shall accept cash as a form of payment for  
4 sales of less than \$2,000 made at such physical loca-  
5 tion; and

6 “(2) may not charge cash-paying customers a  
7 higher price compared to the price charged to cus-  
8 tomers not paying with cash.

9 “(b) EXCEPTIONS.—

10 “(1) IN GENERAL.—Subsection (a) shall not  
11 apply to a person if such person—

12 “(A) is unable to accept cash because of—

13 “(i) a sale system failure that tempo-  
14 rarily prevents the processing of cash pay-  
15 ments; or

16 “(ii) a temporary insufficiency in cash  
17 on hand needed to provide change; or

18 “(B) provides customers with the means,  
19 on the premises, to convert cash into a card  
20 that is either a general-use prepaid card, a gift  
21 card, or an access device for electronic fund  
22 transfers for which—

23 “(i) there is no fee for the use of the  
24 card;

1                   “(ii) there is not a minimum deposit  
2                   amount greater than 1 dollar;

3                   “(iii) amounts loaded on the card do  
4                   not expire, except as permitted under para-  
5                   graph (2);

6                   “(iv) there is no collection of any per-  
7                   sonal identifying information from the cus-  
8                   tomer;

9                   “(v) there is no fee to use the card;  
10                  and

11                  “(iv) there may be a limit to the num-  
12                  ber of transactions.

13                  “(2) INACTIVITY.—A person seeking exception  
14                  from subsection (a) may charge an inactivity fee in  
15                  association with a card offered by such person if—

16                   “(A) there has been no activity with re-  
17                   spect to the card during the 12-month period  
18                   ending on the date on which the inactivity fee  
19                   is imposed;

20                   “(B) not more than 1 inactivity fee is im-  
21                   posed in any 1-month period; and

22                   “(C) it is clearly and conspicuously stated,  
23                   on the face of the mechanism that issues the  
24                   card and on the card—

1 “(i) that an inactivity fee or charge  
2 may be imposed;

3 “(ii) the frequency at which such inac-  
4 tivity fee may be imposed; and

5 “(iii) the amount of such inactivity  
6 fee.

7 “(e) RIGHT TO NOT ACCEPT LARGE BILLS.—

8 “(1) IN GENERAL.—Notwithstanding subsection  
9 (a), for the 5-year period beginning on the date of  
10 enactment of this section, this section shall not re-  
11 quire a person to accept cash payments in \$50 bills  
12 or any larger bill.

13 “(2) RULEMAKING.—

14 “(A) IN GENERAL.—The Secretary of the  
15 Treasury, in this section referred to as the Sec-  
16 retary, shall issue a rule on the date that is 5  
17 years after the date of the enactment of this  
18 section with respect to any bills a person is not  
19 required to accept.

20 “(B) REQUIREMENT.—When issuing a rule  
21 under subparagraph (A), the Secretary shall re-  
22 quire persons to accept \$1, \$5, \$10, \$20, and  
23 \$50 bills.

24 “(f) ENFORCEMENT.—

1           “(1) PREVENTATIVE RELIEF.—Whenever any  
2 person has engaged, or there are reasonable grounds  
3 to believe that any person is about to engage, in any  
4 act or practice prohibited by this section, a civil ac-  
5 tion for preventive relief, including an application for  
6 a permanent or temporary injunction, restraining  
7 order, or other order may be brought against such  
8 person.

9           “(2) CIVIL PENALTIES.—Any person who vio-  
10 lates this section shall—

11                   “(A) be liable for actual damages;

12                   “(B) be fined not more than \$2,500 for a  
13 first offense; and

14                   “(C) be fined not more than \$5,000 for a  
15 second or subsequent offense.

16           “(3) JURISDICTION.—An action under this sec-  
17 tion may be brought in any United States district  
18 court, or in any other court of competent jurisdic-  
19 tion.

20           “(4) INTERVENTION OF ATTORNEY GENERAL.—  
21 Upon timely application, a court may, in its discre-  
22 tion, permit the Attorney General to intervene in a  
23 civil action brought under this subsection, if the At-  
24 torney General certifies that the action is of general  
25 public importance.

1           “(5) AUTHORITY TO APPOINT COURT-PAID AT-  
2           TORNEY.—Upon application by an individual and in  
3           such circumstances as the court may determine just,  
4           the court may appoint an attorney for such indi-  
5           vidual and may authorize the commencement of a  
6           civil action under this subsection without the pay-  
7           ment of fees, costs, or security.

8           “(6) ATTORNEY’S FEES.—In any action com-  
9           menced pursuant to this section, the court, in its  
10          discretion, may allow the prevailing party, other  
11          than the United States, a reasonable attorney’s fee  
12          as part of the costs, and the United States shall be  
13          liable for costs the same as a private person.

14          “(7) REQUIREMENTS IN CERTAIN STATES AND  
15          LOCAL AREAS.—In the case of an alleged act or  
16          practice prohibited by this section which occurs in a  
17          State, or political subdivision of a State, which has  
18          a State or local law prohibiting such act or practice  
19          and establishing or authorizing a State or local au-  
20          thority to grant or seek relief from such act or prac-  
21          tice or to institute criminal proceedings with respect  
22          thereto upon receiving notice thereof, no civil action  
23          may be brought hereunder before the expiration of  
24          30 days after written notice of such alleged act or  
25          practice has been given to the appropriate State or

1 local authority by registered mail or in person, pro-  
2 vided that the court may stay proceedings in such  
3 civil action pending the termination of State or local  
4 enforcement proceedings.

5 “(g) GREATER PROTECTION UNDER STATE LAW.—  
6 This section shall not preempt any law of a State, the Dis-  
7 trict of Columbia, a Tribal government, or a territory of  
8 the United States if the protections that such law affords  
9 to consumers are greater than the protections provided  
10 under this section.

11 “(h) RULEMAKING.—The Secretary shall issue such  
12 rules as the Secretary determines are necessary to imple-  
13 ment this section, which may prescribe additional excep-  
14 tions to the application of the requirements described in  
15 subsection (a).”.

16 (b) CLERICAL AMENDMENT.—The table of contents  
17 for chapter 51 of title 31, United States Code, is amended  
18 by inserting after the item relating to section 5103 the  
19 following:

“5104. Retail businesses prohibited from refusing cash payments.”.

